Comments on
Draft Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation (Second Amendment) Regulations, 2013

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1. **Eligibility for RECs - Capacity for Captive Consumption:** The connected/sanctioned load (of industrial consumer) and capacity of a captive generating plant meant for self-consumption do not have a correlation. Hence, substituting the former for the later may not be justified. In fact it may be the case that former could be higher or lower than the later. Further, how would capacity data be translated to electricity generated and consumed within the plant for REC issuance. The Explanatory Memorandum to the Draft Regulations also appropriately mentions that cane crushing is a seasonal phenomenon. Seasonal variations in self consumption of electricity also need to be accounted for. Identified capacity for self requirements cannot be expected to be used throughout the year at constant PLF.

   Further, (even if the connected/sanctioned load is considered as suggested in draft regulations) self consumption, there can be variation in the connected/sanctioned load in case an industrial consumer opts for temporary load reduction during off-season.

   Captive power plants above 1 MW annually provide information to Central Electricity Authority (CEA) on units generated, consumed and sold to utility. If submitted under an affidavit, this information could be used. Further, companies registered under the Company's Act 1956 are required to submit to information on energy consumption including consumption from captive power plant. This information is submitted as per Form-A to the Director's Report. While Form-A is not audited, it can be used for cross verification.

2. **Eligibility for RECs - Capacity for Captive Consumption – Why only Baggasse based Co-generation Plants:** The rational for applicability of altered "Sub-clause (b) of clause (1) of Regulation 5 of Principal Regulations" only to baggasse based cogeneration plants is not justified. Why should not a similar consideration (with appropriate and correct justification) be given to other biomass/RE based captive generating plants? Rationale for singling out only the baggasse based cogeneration plants is not clear.

3. **Fixation of APPC would reduce uncertainty:** The change in sub-clause (c) of clause (1) of Regulation 5 of Principle Regulations would bring in a sense of revenue certainty to APPC and improve investor's and lender's confidence.

4. **Termination of Existing Contract (Proviso under sub-clause (c) of clause (1) of Regulation 5 of Principle Regulations):** This may need to clarified further by appending 'adverse' to 'order or ruling' in case the original intention was to suggest to such type of orders or rulings. The

substituted proviso under sub-clause (c) of clause (1) of Regulation 5 of Principle Regulations should also account for a case 'if the contract is terminated by the utility' as per conditions laid down in the agreement between the utility and the captive generating plant.

5. **Case of CGP enjoying Benefits from the Utility (Proviso under sub-clause (c) of clause (1) of Regulation 5 of Principle Regulations):** Paras 3 and 4 of the proviso do not present a balanced viewpoint. The criteria of loss to the utility should apply rather who withdraws the concessional facility. In case the CGP is/was selling electricity at preferential tariff to the utility, a lock-in period should stay. A lock-in may not be necessary if shifting from a 'an outside sale' to the REC regime does not lead to any financial loss to the utility.

   What if a CGP is enjoying benefits of of concessional transmission/wheeling charges or banking facility but is not selling power under the preferential tariff (it may be selling this through open access to other consumers or through a PX)[1]? Should lock-in period apply in such cases?

6. **Explanation (Proviso under sub-clause (c) of clause (1) of Regulation 5 of Principle Regulations):** Language can be simplified. It ('Explanation') essentially means that a CGP injecting/ withdrawing at peak or off-peak time periods would constitute 'banking facility'. (one can map the sentences and would realizes that all four combinations are covered).

7. **Amendment of Regulation 7 of the Principal Regulations:** Citoff date for consideration should be based on 'applications received on or before that day' rather than applications made on a specific day. This would be much simple procedurally (this is akin to cutoff for open access application procedures).

8. **Extension of Validity and Banking of RECs for All Obligated Entities (Amendment of Regulations 8 & 10 of the Principal Regulations):** Proposed Clause (3) essentially allows banking to CGP. Why shouldn't other obligated entities i.e. utilities as well as open access consumers be also permitted to retain RECs. This amendment would be partial to such obligated entities. (The proposed Amendment to Regulation 10 seems to do the needful on its own)

   Extension of validity of certificate is a welcome but incomplete step. If certificates are now valid for 730 days for all (proposed Amendment to Regulation 10 of the Principal Regulations), it does not make sense to limit banking facility only to CGPs. In fact extension of validity itself could be interpreted as 'deemed' banking as RE plants are not mandated to sell RECs that they have (theoretically speaking they can retain these till they last and may not sell the same). They can retain certificates as long as as these are valid. A clarification would help ensure that (through extension of validity of RECs) banking is now available to all RE generators.

[1] It is pertinent to check if there are few cases where the utility has been offering such concessional benefits but not purchasing electricity at preferential tariffs.